

Appl. No. : 09/974,769
Filed : October 9, 2001

REMARKS

Claims 1–7 are pending in this application. In the October 8, 2003 Office Action, the Examiner allowed Claims 5–7. The Examiner also rejected Claims 1–4. In particular, the Examiner rejected Claim 2 under the non-statutory, obviousness-type double patenting doctrine as being unpatentable over Claim 1 of U.S. Patent No. 6,327,476. The Examiner further rejected Claims 2–3 under the non-statutory, obviousness-type double patenting doctrine as being unpatentable over Claim 1 of U.S. Patent No. 6,327,476 in view of U.S. Patent No. 5,005,168 (“the Cummiskey patent”). The Examiner further rejected Claims 1–4 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,026,308 (“the Hsieh patent”) in view Cummiskey.

By this amendment, Applicant submits a Terminal Disclaimer with respect to Claims 2–3 and has amended Claims 1–4. In view of the following comments, Applicant respectfully requests reconsideration and allowance of the pending claims.

PRIORITY

Applicant notes that the Office Action Cover Sheet did not indicate acknowledgement of a claim for priority under 35 U.S.C. § 120 as indicated in the filing receipt and in the published patent application. Applicant respectfully requests an acknowledgement in any subsequent Office Action.

ALLOWED CLAIMS 5–7

Applicant thanks the Examiner for the indication of allowable subject matter in Claims 5–7.

CLAIM REJECTIONS FOR OBVIOUSNESS-TYPE DOUBLE PATENTING

The Examiner rejected Claims 2–3 under the so-called non-statutory, obviousness-type double patenting rejection. In response, Applicant submits herewith a Terminal Disclaimer in compliance with 37 C.F.R. §1.321. Applicant respectfully requests that the obviousness-type double patenting rejection be withdrawn.

Appl. No. : 09/974,769
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CLAIM REJECTIONS UNDER 35 U.S.C. § 103(a)

The Examiner rejected Claims 1–4 under 35 U.S.C. § 103(a) as being unpatentable over Hsieh in view of Cummiskey.

Focusing on amended independent Claim 1, in one embodiment of Applicant's invention a wireless unit is disclosed that comprises, among other things: (1) a codec to generate an audio sample; (2) a modem responsive to a first signal to encode first data in a first frame and responsive to a second signal to encode the audio sample in a second frame; and (3) a radio transceiver responsive to the first signal to transmit an RF signal frame representing the first frame and responsive to the second signal to transmit an RF signal frame representing the second frame. In addition, the first signal is derived from command data received at a communication port.

Neither Hsieh nor Cummiskey discloses a wireless unit as recited in Claim 1. The Examiner acknowledged in the October 8, 2003 Office Action that Hsieh does not disclose a wireless unit having a codec to generate an audio sample.

In addition, Hsieh does not disclose a wireless modem that is responsive to a first signal to encode data, wherein the first signal is derived from command data received at a communication port. Rather, Hsieh appears to disclose a phone and modem combination that requires a user to manually select a key on a keypad to switch between transmitting voice communications and transmitting digital data for a computer (see Abstract and Col. 4, lines 19–28). Thus, Hsieh seems to concern a system that requires the user to manually select either a voice mode or a data mode.

Cummiskey also fails to teach a wireless unit as described in Claim 1. Rather, Cummiskey appears to disclose a modem apparatus that is used to operate at different rates in the sending of voice or data information. Cummiskey fails to describe a wireless unit having a modem and a transceiver that encode and transmit data in a first frame based on a first signal derived from command data received at a communication port.

Because the references cited by the Examiner do not disclose, teach or suggest a wireless unit having a modem and a transceiver that encode and transmit data in a first frame based on a signal derived from command data received at a communication port, Applicant asserts that Claim 1 is not obvious in view of Hsieh and Cummiskey. Applicant respectfully requests allowance of Claim 1.

Appl. No. : 09/974,769
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Independent Claim 2 is believed to be patentable for the different aspects recited therein.

Claims 3–4 depend from independent Claim 2 and are believed to be patentable for the additional features recited therein.

Applicant notes that Claim 2 has been amended to correct typographical errors. Claims 3–4 were also amended to correct for a lack of an antecedent basis.

REQUEST FOR TELEPHONE INTERVIEW

Pursuant to M.P.E.P. § 713.01, in order to expedite prosecution of this application, Applicant's undersigned attorney of record hereby formally requests a telephone interview with the Examiner as soon as the Examiner has considered the effect of the arguments presented above. Applicant's attorney can be reached at (949) 721-2998 or at the number listed below.

CONCLUSION

In view of the foregoing, the present application is believed to be in condition for allowance, and such allowance is respectfully requested. If further issues remain to be resolved, the Examiner is cordially invited to contact the undersigned such that any remaining issues may be promptly resolved.

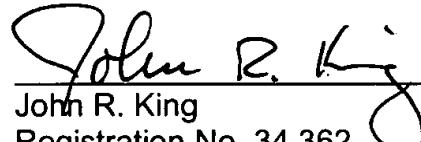
Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 1/7/04

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